

1AP7 Rec'd PCT/PTO 29 MAR 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit:
PATCHORNIK et al.)	
)	
IA No.: PCT/IL2003/000606)	
)	Washington, D.C.
IA Filed: 24 July 2003)	
)	Con. No. 3902
U.S. App. No.:)	
4,101/541,751)	
)	March 29, 2006
National Filing Date:)	
(Not Yet Received))	
)	
For: ENERGY SAVING STARTUP ...)	Docket No.: PATCHORNIK5

PETITION TO VACATE HOLDING OF ABANDONMENT

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop PCT
401 Dulany Street
Alexandria, VA 22314

RECEIVED

- 3 APR 2006

Sir:

Legal Staff
International Division

Applicant is in receipt of the Notice of Abandonment, mailed February 24, 2006, which states that the application is abandoned because of applicant's failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495).

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

THE FACTS

In re Petition to Vacate Holding of Abandonment (PATCHORNIK5)

On July 8, 2005, the undersigned filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371, along with a Petition to Revive Under 37 CFR 1.137(b). At the time these documents were filed, the basic, search and examination fees of \$500.00 were paid, along with the \$750.00 petition fee. The Petition was necessary as the 30 month deadline for national stage entry had expired on June 24, 2005. Said petition properly stated that the entire delay in filing the request for entry into the U.S. National Stage was unintentional.

As evidence that said documents were timely filed, attached please find a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on July 8, 2005. Said postcard indicates that said transmittal was timely filed. While the postcard omits reference to the Petition to Revive filed with the transmittal, it does indicate that a fee of \$1250.00 was paid. Review of the second page of the transmittal indicates that the \$1,250.00 in fees being paid were the basic, search, examination fees, as well as a petition fee.

As it appears that the Petition to Revive Under 37 CFR 1.137(b) filed on July 8, 2005, has been lost by and in

the PTO, attached hereto is a duplicate copy of the Petition dated July 8, 2005, and related papers.

REMARKS

In view of the above evidence, it is clear that the fees required by 37 CFR 1.495 were timely and properly filed and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself which indicates that the transmittal was filed along with a total fee of \$1,250.00, which transmittal letter in turn indicates that the fee included a petition fee, should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

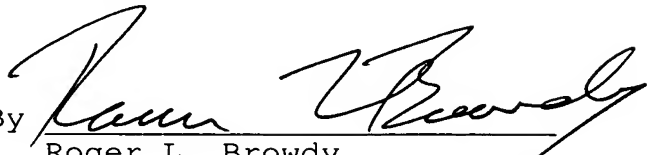
In the event that it is decided that insufficient proof has been filed that the Petition to Revive was filed on July 8, 2005, it is respectfully requested that the duplicate copy of the Petition attached hereto be considered a new petition to revive and the above-identified application be considered to have entered the U.S. National stage in a timely manner.

If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the

In re Petition to Vacate Holding of Abandonment (PATCHORNIK5)

holding of abandonment is erroneous and is entirely the fault
of the PTO.

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By 
Roger L. Browdy
Registration No. 25,618

RLB:edg

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

G:\BN\C\cohn\patchornik5\patent erroneous abandonment.doc

FILED:

8 July 2005

10/541751

APPLICANT(S):

J. PATZHOENIK

DOCKET NO.:

PATZHOENIK 5

2 of 2 ✓

PCT APPLN. NO.:

THE PATENT AND TRADEMARK OFFICE STAMP HEREON
ACKNOWLEDGES RECEIPT OF THE ABOVE-IDENTIFIED
APPLICATION, INCLUDING THE FOLLOWING PAPERS:

FEES \$ 12501.00

(CH. # PTO 1848)

☐ PCT APPLICATION☐ TRANSMITTAL LETTER REQUEST☐ FEE CALCULATION SHEET☐ SPECIFICATION (_____ pages)☐ DRAWINGS (_____ sheets; _____ figures)☐ SEQUENCE LISTING ☐ WITH DISK☐ APPOINTMENT OF AGENT☐ PCT EASY DISKETTE☐ INVITATION TO CORRECT DEFECTS☐ REQUEST FOR RECTIFICATION☐ DEMAND FOR CHAPTER II☐ ARTICLE 34 AMENDMENTS☐ RESPONSE TO WRITTEN OPINION☒ U.S. NATIONAL PHASE OF INTERNATIONAL APPLICATION☒ TRANSMITTAL LETTER☒ DECLARATION (2 pages)☒ APPLICATION DATA SHEET☒ PRELIMINARY AMENDMENT☐ OTHER _____

JC10 Rec'd PCT/PTO 08 JUL 2005

☐ SUPPLEMENTAL PRELIMINARY AMENDMENT☐ INFORMATION DISCLOSURE STATEMENT (_____ pages)☐ FORM 1449 (_____ pages)☐ PATENTS AND/OR PRINTED PUBLICATIONS☐ SEQUENCE LISTING ☐ WITH DISK☒ COURTESY COPY:☒ SPECIFICATION (14 pages)☒ DRAWINGS (4 sheets; 4 figures)☒ 1ST PAGE INTERNATIONAL PUBLICATION☒ INTERNATIONAL SEARCH REPORT☐ IPER ☐ WITH ☐ WITHOUT ANNEXES☐ ENGLISH LANGUAGE TRANS OF SPECIFICATION AS FILED☐ ENGLISH LANGUAGE TRANS OF ANNEXES TO IPER☐ SUBSTITUTE SPECIFICATION